

Civil Revision No. 8010 of 2018 (O&M)

Date of decision : November 27, 2018

Neena Kaushal

.....Petitioner

Versus

Dinesh Kumar

....Respondent

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Harsh Goyal, Advocate for the petitioner.

LISA GILL, J.

This petition has been filed challenging order dated 20.11.2018 passed by the learned Rent Controller, Malerkotla whereby the application moved by the respondent to close the evidence of the petitioner was allowed and prayer to examine AW12 Amrik Singh was declined.

It is submitted that vide order dated 08.10.2018 passed by this Court in CR-6656-2018 (Annexure P-1), it was directed that one effective opportunity be afforded to the petitioner to examine AW12 Amrik Singh. Certified copy of the said order, though received on 16.10.2018, was presented before the learned Rent Controller on 30.10.2018. Learned Rent Controller adjourned the matter to 01.11.2018 for examination of AW12 subject to deposit of Rs.15,000/- as costs. Cost of Rs.15,000/- was deposited and AW12 was present for cross examination on 01.11.2018 as is reflected in order of even date passed by the learned Rent Controller. However, an application was moved by the respondent for closing the evidence of the petitioner on the ground that the petitioner has failed to comply with order dated 08.10.2018 as two effective opportunities already stood availed. This application was allowed by the learned Rent Controller vide impugned order dated 20.11.2018.

It is submitted that an effective opportunity would necessarily mean the one as afforded by the learned Rent Controller vide order dated 30.10.2018. As directed, cost was deposited and the witness (AW12) was present before the learned Rent Controller on 01.11.2018, therefore, the impugned order is liable to set aside. The matter, it is submitted, is fixed before the learned Rent Controller on 29.11.2018. In case opportunity is afforded, the petitioner undertakes that AW12 Amrik Singh shall be present before the learned Rent Controller on 29.11.2018 itself.

Heard, learned counsel for the petitioner.

Keeping in view the stand of the petitioner, it is considered appropriate to dispose of this petition without issuance of notice to the respondent in order to obviate any further delay and to avoid the burden of unnecessary litigation expenses upon the respondent.

Keeping in view the facts and circumstances of the case, order dated 20.11.2018 is set aside subject to the petitioner depositing further cost of Rs.15,000/- before the learned Rent Controller on 29.11.2018 itself, to be released to the respondent. Furthermore, the petitioner shall ensure presence of AW12 Amrik Singh for cross examination on 29.11.2018 itself. In case, cross examination of AW12 Amrik Singh is not conducted/carried out by the respondent for any valid reason on 29.11.2018, learned Rent Controller to afford one single adjournment for the said purpose. It shall be the responsibility of the petitioner to ensure presence of AW12 Amrik Singh on the said date as well.

It is made clear that in case the said cost is not deposited by the petitioner on 29.11.2018 and AW12 Amrik Singh is not present for cross

examination on 29.11.2018 or any other date if fixed by the learned Rent
Controller, order dated 20.11.2018 shall automatically stand revived.

Petition is, accordingly, disposed of.

November 27, 2018
rts

(Lisa Gill)
Judge

Whether speaking/reasoned :	Yes/No
Whether reportable :	Yes/No